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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/437,912 11/09/99 MCCRAE

K 6056-257

EXAMINER

HM12/0328

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ART UNIT

PAPER NUMBER

1653

DATE MAILED:

03/28/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/437,912

Applicant(s)  
McCrae

Examiner  
Hope Robinson

Group Art Unit  
1653



☒ Responsive to communication(s) filed on Jul 18, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-35 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-35 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Serial Number 09/437,912  
Art Unit 1653

Restriction to one of the following inventions is required under  
35 U.S.C. 121:

- I. Claims 1-16, 19 and 22 are drawn to a pharmaceutical composition ,  
classified in class 514, subclass 2.
- 5 II. Claims 17, 20 and 23-35 are drawn to a method of inhibiting  
endothelial cell proliferation, classified in class 435, subclass  
325.
- III. Claims 18 and 21 are drawn to a method of inducing endothelial  
cell apoptosis, classified in class 435, subclasses 6 and 7.2.

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The Inventions are distinct, each from the other because of the  
following reasons:

Invention I is related to Inventions II and III since Inventions II and  
15 III use the composition of Invention I. However, the method of Invention I  
and the methods of Inventions II and III that utilizes the claimed composition  
have different method steps and endpoint. As the method of Invention I is  
directed to a method of inhibiting angiogenesis, the method of Invention II is  
directed to a method of inhibiting endothelial cell proliferation and the  
20 method of Invention III is directed to a method of inducing endothelial cell  
apoptosis.

The methods of Inventions II-III are separate and distinct because the  
methods each have different methods steps and endpoints.

Because these inventions are distinct for the reasons given above and  
25 have acquired a separate status in the art as shown by their different  
classification, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-

Serial Number 09/437,912  
Art Unit 1653

5 elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventor-ship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Hope A. Robinson whose telephone number is (703)308-6231. The Examiner can normally be reached on Monday - Friday from 9:00 A.M. to 5:30 P.M. (EST).

10 If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor Christopher S.F. Low, can be reached at (703)308-2923.

Any inquiries of a general nature relating to this application should be directed to the Group Receptionist whose telephone number is (703)308-0196.

15 Papers related to this application may be submitted by facsimile transmission. The official fax phone number for Technology Center 1600 is (703) 308-4242. Please affix the Examiner's name on a cover sheet attached to your communication should you choose to fax your response. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG (November 15, 1989).

20  
Hope A. Robinson, MS

Patent Examiner

*Christopher S. F. Low*  
CHRISTOPHER S. F. LOW  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600